

RECEIVED  
CENTRAL FAX CENTER

JAN 21 2009

## Facsimile Cover Sheet

To: Examiner Walter E. Webb  
Company: United States Patent and Trademark Office  
Phone: (571) 272-3553  
Fax: (571) 273-8300

From: Linda Marchione  
Company: LyondellBasell Industries  
Phone: (610) 359-2416  
Fax: (610) 359-2414

Date: January 20, 2009

Re: Application No. 10/552,574

Pages including this cover page: 2

Dear Examiner Webb:

This Office Action was sent to Customer Number 24114. Please note that this is not our patent application and it is **not associated with our Customer Number 24114.**

Please correct your records.

Thank you.

Regards,

Linda Marchione

If you experience difficulty receiving this transmission, please call Linda Marchione at (610) 359-2416.

CONFIDENTIAL

JAN 21 2009

se 28 : RCVD AT 1/20/2009 2:54:07 PM [Eastern Standard Time] : SVR:USPTO-EF-XRF-6/34 : DNS:2738300 : CSID:6103592414 : DURATION (mm:ss):02:02  
may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of



**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/552,574  | 08/04/2006  | James Davidson       | 010180.00043        | 4765             |
| 24114   | 7590        | 01/13/2009           |                     |                  |
| LyondellBasell Industries<br>3801 WEST CHESTER PIKE<br>NEWTOWN SQUARE, PA 19073 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| WEBB, WALTER E  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 1612  |             |                      |                     |                  |
| MAIL DATE   |             | DELIVERY MODE        |                     |                  |
| 01/13/2009  |             | PAPER                |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECEIVED

JAN 20 2009

PATENT DEPARTMENT

Continuation Sheet (PTO-303)

Application No. 10/552,574

Continuation of 11. does NOT place the application in condition for allowance because: Applicant continues to argue that the prior art compounds of Achard are not structurally similar to the instant compounds, and are not expected to have the same CB1 antagonistic activity. However, the rejection is over a combination of Adams and Achard, and both references teach treatment of the same CNS disorders such as anxiety and epilepsy. Given the similar structure of the compounds of Adams and Achard and their ability to treat the same CNS disorders, the artisan would have reasonably expected the compounds of Adams to also treat other CNS disorders taught in Achard such as bulimia. Applicant argues that the molecular target in Adams is the GABA<sub>A</sub> receptor and modulation of this receptor is not known in the art to be involved with the claimed disorders. However, this is untrue. For the purposes of rebutting applicant's statement, Rosmond et al. (International Journal of Obesity 2002) is cited. This reference teaches that variants in the GABA<sub>A</sub> receptor subunit gene is associated with abdominal obesity. (See Abstract.) Abdominal obesity is caused by excess cortisol, which results when cortisol is not properly regulated through the binding of GABA to GABA<sub>A</sub> receptors. (See pg. 938, right column second paragraph.) Applicant's arguments are unpersuasive. The teachings of Adams and Archard provide a reasonable basis for treating disorders instantly claimed with the compound(s) of Adams.

|                                   |                                       |   |             |
|-----------------------------------|---------------------------------------|---|-------------|
| <b>Notice of References Cited</b> | Application/Control No.<br>10/552,574 | Applicant(s)/Patent Under<br>Reexamination<br>DAVIDSON ET AL. |             |
|                                   | Examiner<br>WALTER E. WEBB            | Art Unit<br>1612  | Page 1 of 1 |

## U.S. PATENT DOCUMENTS

| * |   | Document Number<br>Country Code-Number-Kind Code | Date<br>MM-YYYY | Name | Classification |
|---|---|--|-----------------|------|----------------|
|   | A | US-  |                 |      |                |
|   | B | US-  |                 |      |                |
|   | C | US-  |                 |      |                |
|   | D | US-  |                 |      |                |
|   | E | US-  |                 |      |                |
|   | F | US-  |                 |      |                |
|   | G | US-  |                 |      |                |
|   | H | US-  |                 |      |                |
|   | I | US-  |                 |      |                |
|   | J | US-  |                 |      |                |
|   | K | US-  |                 |      |                |
|   | L | US-  |                 |      |                |
|   | M | US-  |                 |      |                |

## FOREIGN PATENT DOCUMENTS

| * |   | Document Number<br>Country Code-Number-Kind Code | Date<br>MM-YYYY | Country | Name | Classification |
|---|---|--|-----------------|---------|------|----------------|
|   | N |  |                 |         |      |                |
|   | O |  |                 |         |      |                |
|   | P |  |                 |         |      |                |
|   | Q |  |                 |         |      |                |
|   | R |  |                 |         |      |                |
|   | S |  |                 |         |      |                |
|   | T |  |                 |         |      |                |

## NON-PATENT DOCUMENTS

| * |   | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)   |
|---|---|---|
|   | U | Rosmond et al., "Allelic variants in the GABAAalpha6 receptor subunit gene (GABRA6) is associated with abdominal obesity and cortisol secretion." International Journal of Obesity 2002;26:938-941. |
|   | V |   |
|   | W |   |
|   | X |   |

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office  
PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20090109